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In re Application of:	:	
JONG-SEO CHOI <i>et al.</i>	:	DECISION ON PETITION
Serial No.: 09/964,375	:	TO WITHDRAW A RESTRICTION
Filed: September 28, 2002	:	REQUIREMENT
Attorney Docket No.: P56533	:	

This is a decision on the petition under 37 C.F.R. § 1.144 and § 1.181, filed February 11, 2005, to withdraw a restriction requirement.

The petition is DISMISSED as moot.

A review of the file record indicates that a non-final office action was mailed on May 30, 2003 rejecting all pending claims, which were all drawn to an apparatus. Applicant's response received September 2, 2003 included new claims that were drawn to a method of producing the apparatus.

The Examiner issued a second non-final office action, mailed on November 26, 2003, containing a restriction requirement. Since applicant received an action on the merits for the originally presented invention, which were constructively elected by original presentation for prosecution on the merits, the method claims were withdrawn from consideration by the Examiner as being directed to a non-elected invention. Applicant traversed the restriction requirement in the response received on February 26, 2004.

The Examiner issued a third non-final office action, mailed July 23, 2004, making the restriction requirement final. Applicant renewed the traversal of the restriction requirement in a response received October 15, 2004.

An *Ex parte Quayle* action was mailed on January 11, 2005 with a requirement for applicant to cancel the non-elected claims or take other appropriate action. Applicant filed a petition, received February 11, 2005, to withdraw the restriction requirement. On February 25, 2005, before a decision on the petition was made, applicant filed an amendment canceling all claims that were withdrawn from consideration by the Examiner in the restriction requirement to place

the application in condition for allowance. Since the withdrawn claims are no longer pending, the petition to withdraw the restriction requirement is moot.

Accordingly, the petition is dismissed as being moot.

The application file is being returned to the examiner for continued examination.



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